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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/506,261	02/17/2000	Dennis Palatov	MGANO-010A	7408

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O"Melveny & Myers LLP
IP&T Calendar Department LA-13-A7
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EXAMINER	
BROWN, RUEBEN M	

ART UNIT	PAPER NUMBER
2424	

NOTIFICATION DATE	DELIVERY MODE
06/10/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/506,261	PALATOV ET AL.	
	Examiner	Art Unit	
	REUBEN M. BROWN	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 March 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *30,32-34,36-44,46-50 and 52-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *30,32-34,36-44,46-50 and 52-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 30, 32-34, 36-44, 46-50 & 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis, (US PG-PUB 2005/0144641), in view of Amron, (U.S. PG-PUB # 2001/0043194) and Xie, (U.S. Pat # 7,304,937) and Saward, (U.S. Pat # 5,537,473).

Considering claim 30, the amended claimed system for distributing video content, comprising,

'an interactive kiosk configured to be located in a public location, the kiosk comprising a receptacle configured to manually receive a storage device via a second physical connector adapted to mate with a first connector, an input device for receiving input from a user, the kiosk further configured to securely store video content in response to the received user input', is met by the VPR/DMS of Lewis which is a receiver that receives video programming from one or more video providers, Para [0023; 0261] . Lewis teaches that the video may at least be temporarily stored in memory 14 and secured by scrambling and/or other methods, Para [0135; 0144].

As for the claimed, *'configured to be located in a public location'*, Lewis teaches that the VPR/DMS is appropriate for a range of commercial applications, including bookstores, rental stores, music stores, etc., Para [0201].

As for the claimed, *'portable video content storage device upon which digitally encoded video content is securely stored to prevent unauthorized access, ...the storage device comprising memory capable of storing a least MPEG2 quality video content, ...a security module that connects with and limits access to the memory'*, Lewis teaches a plurality of storage devices that may interface with the receiver to download digitally compressed data, that may also be

scrambled, Para [0035; 0211; 0254; 0257]. Furthermore, Lewis teaches that video data that has been stored in memory 14 may be retrieved onto one or more portable storage medium 19, Para [0198-0199; 0204-0205; 0215]. Lewis also discloses that access to the content downloaded to the portable recorder/player 19 is limited to users that have satisfied the associated fee, and have the authorization key downloaded, [0160].

As for the newly added, *'authenticating the identity of any device attempting to communicate with the memory'*, even though Lewis teaches that the customer may be authenticated with a password, the reference does not explicitly discuss authenticating the identity of a device attempting to communicate with the memory. Nevertheless, Saward provides a teaching of a customer accessing memory at a system by using a smart card 26, such that the smart card 26 has to be authenticated, before it can be used, see col. 3, lines 5-30. The smart card may carry information that informs the system that the customer has paid for certain services, e.g., movies in memory. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Lewis with the feature of authenticating the identify the device access, for the desirable benefit of ensuring that any device that interfaces with the system is authorized, which overcomes the well-know problem of piracy.

'a device controller that connects with and controls the memory, wherein the memory is compatible with the device controller but the memory is incompatible with industry standard device controllers', Lewis teaches that system may operate in a manner that video programming

is stored in a proprietary format, which would require the unique functions of the VPR/DMS see, Para [0254; 0257].

The claimed, *'set top box comprising a second receptacle configured to manually receive the storage device via a third physical connector to mate with the first connector, the set top box further configured to access securely store video content from the storage device, and provide the video content to a display device'*, Lewis teaches that the VPR/DMS is also enabled to receive video programming from a plurality of portable storage medium, see Para, [0254]. As for, *'configured to accumulate content use data and store the accumulated content use data directly onto the storage device'*, see Para [0260], which teaches that the VPR/DMS is capable of electronic monitoring and logging all transactions.

The further claimed feature that the first, second and third connectors are incompatible with industry standards, Lewis teaches that information or content may be formatted in a manner that is proprietary, but does not mention the physical connectors. However, Amron, which is in the same field of endeavor (of a portable memory device 19 for storing/transferring video data) teaches a proprietary interface for connecting a plug-in memory storage unit 19 to a receiver, see Para [0033, 0041]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Lewis with the teaching of a proprietary interface, as taught by Amron, for the well-known advantage of limiting access to the devices, apparatus and/or content, by requiring the use of a non-standard interface or component, as taught by Amron, [0020-0022]. Specifically, Amron teaches that the plug-in module is a card which is a non-standard card

having a proprietary size, that will not fit into the connector interface port of a standard device. Furthermore, Amron teaches that the memory is formatted in a proprietary compression format, see Para [0019, 0037].

As for the additional claimed recitation, *'to substantially prevent the content-use data and the stored video content from being accessed by an industry-standard computer system'*, the subject matter is also met by the disclosure of Amron, [0019-0022, 0037].

Regarding the further claimed feature of the, *'content use data comprising at least a number of times and the securely stored video content has been accessed and portions of the securely stored content that are accessed…to calculate a usage fee based on the number of times and the portions of the securely stored video content that are accessed'*, Lewis only explicitly discusses billing the user based on a rental period, [0205-0209] not according to number of times usage.

However Xie, which is in the same field of endeavor (video programming stored on a portable memory device), provides a teaching of charging a customer based on the number of times that a movie is played from a particular DVD, see col. 2, lines 5-35. Xie goes on to also teach that multiple different movies may be stored on that particular DVD, so that the customer is billed based on the actual movie that was played back, which reads on the claimed *'and the portions of the securely stored video content that is accessed'*, col. 6, lines 61-67; col. 8, lines 21-

42. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Lewis with the feature of billing customers per usage of a downloaded video content, at least for the desirable benefit of the content provider providing the DVD at a low-cost and then collecting money based on the usage of the of the downloaded content (which allows a billing system more tailored to the desires of a particular customer), see col. 2, lines 22-35 and furthermore for the desirable benefit of expanding the ability of eth content provider to provide more content to a customer in a more efficient manner, as taught by Xie see col. 3, lines 21-35.

As for the newly added requirement, *'and which portions and the durations of such portions'*, Xie teaches that the DVD are layered so that multiple different video programs may be stored on a single disk, see co. 3, lines 26-35; col. 3, lines 57-67; col. 7, lines 51-58 & col. 8, lines 20-40. In order to access a particular video program on a DVD, the appropriate corresponding BCA must be used, which then allows the system to again record for billing the number of a times that a particular video program has been accessed from the DVD.

Regarding the newly added feature of the kiosk being *'configured to erase the accumulated content use data from the storage device that specifies content use for which payment has already been made'*, Lewis teaches erasing programs that have been rented by a customer from the kiosk, see Para [0205-0207, 0218].

Considering claim 32, a passive storage media unit reads on the portable device of Lewis.

Considering claim 33, Lewis teaches scrambling, watermarking, etc. [0260].

Considering claim 34, the claimed method of obtaining and using video content corresponds with subject matter mentioned above in the rejection of claim 30, and is likewise treated.

Considering claim 36, the claimed *'manually reinserting the storage device in the kiosk'*, reads on the combination of Lewis [0215] & Flannery (Figs. 3 & 4).

Considering claim 37, the hand-held dedicated secure video content storage device corresponds with subject matter mentioned above in the rejection of claim 30, and is likewise treated. In particular, the portable storage device 19 of Lewis, meets the claimed, *'mass storage device'*, see [0215].

Considering claim 38, the physical connectors in Lewis & Flannery are electrical.

Considering claim 39, Official Notice is taken that optical connectors were known at the time the invention was made. It would have been obvious for one of ordinary skill in the art to modify Lewis with an optical connector at least, for the benefit of increased portability.

Considering claim 40, Lewis teaches authentication of the VPR/DMS.

Considering claims 41-44, 46-47 & 52-56, Lewis teaches all subject matter, see Para [0189-0191, 0211, 0213, 0214, 0260].

Considering claim 48, the claimed set-top box for accessing video content stored on a portable storage device, corresponds with subject matter mentioned in the rejection claim 30 and is likewise treated. Furthermore, Lewis teaches that the receiver is enabled to store, process and playback data products for a portable storage device, see Para [0254].

Considering claim 50, the system of Lewis inherently controls the portable storage device and decrypts data stored therein, see col. 8, lines 44-67.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Shimomura Teaches deleting old cached files, for the advantage of conserving space, to store new files, see col. 11, lines 5-15.

B) Seger A portable media device with self-contained security.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:
(571) 273-8300, (for formal communications intended for entry)
Or:
(571) 273-7290 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Annan Q Shang/
Primary Examiner, Art Unit 2424